

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 21, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 21, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Don Anderson, Vice-Chair; Bob Aldrich; Elizabeth Bishop; David Dennis; Michael Gisick (In @1:36 P.M.); Bud Hentzen; Bill Johnson; Ronald Marnell; John W. McKay Jr.; M.S. Mitchell; Don Sherman (In @1:37 P.M) and G. Nelson Van Fleet. Darrell Downing and Hoyt Hillman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary

❖ **Items # 1-1 through 1-5 may be taken in one motion unless there are questions or comments.**

Consideration of Subdivision Committee recommendations from the meeting of June 14, 2007.

1-1. SUB 2007-36: Final Plat -- THE WATERFRONT RESIDENTIAL ADDITION, located on the north side of 13th Street North and west of Greenwich Road.

NOTE: A zone change (ZON 2007-15) from LI, Limited Industrial to SF-5, Single-Family Residential has been approved. This site (with the exception of the west 280 feet) is located in the County adjoining Wichita's city limits and annexation is required.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved by City Council.
- C. The applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. City Engineering has approved the applicant's drainage plan. Off-site drainage agreements are needed.
- F. On the final plat tracing, the private street (Reserve L) will encompass the turnaround. Use of the turnaround for public access shall be referenced in the plat's text.
- G. A covenant shall be submitted regarding the private street (Reserve L), which sets forth ownership and maintenance responsibilities.
- H. In accordance with the Subdivision Regulation the private streets shall be constructed to the public street standards. As private improvements, such guarantee shall not be provided through the use of a petition.
- I. GIS has requested that Santenay be replaced by a new name since it is too similar to the existing street "Santa Fe". The reference to Garden Gate Street in the plat's text shall be deleted.

The Subdivision Committee has approved the street name "Santenay".

- J. As requested by City Fire Department in accordance with the code requirements of the International Fire Code, the applicant has provided second access for emergency vehicles extending to the east due to the number of

proposed lots for this residential addition.

- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- M. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. Since reserves abut portions of public streets, the plat's text should include the language "owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance."
- O. One of two "Reserve M's needs relabeled.
- P. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings
- Q. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. The applicant has indicated that he is in the process of having a blanket pipeline easement confined. A recorded copy of the release/confinement of the easement shall be submitted.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-foot utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army

Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL, Planning staff gave the staff report.

MOTION: To approve subject to staff recommendation, and change of the street name to Mosaic.

MITCHELL moved, ALDRICH seconded the motion, and it carried (11-1).

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- 1-2. **SUB 2007-44: Final Plat -- SKYWAY WEST ADDITION**, located on the southwest corner of 31st Street South and Maize Road.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site has been approved for two zone changes (ZON 2005-18) and (ZON 2006-43) from SF-20, Single-Family Residential to IP, Industrial Park. Protective Overlays (P-O #176) and (P-O #183) were also approved for this site addressing building setbacks and permitted uses.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. City Water Utilities Department has required a petition for extension of sewer. The applicant shall include in lieu of assessment for sewer main with the petition. Water is available on Maize but in lieu of assessment is needed for connection. In the alternative, the applicant may petition for water west on 31st to the west property line of the plat.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan. An off-site drainage easement is needed. Reserve B needs to be extended. County Engineering requests submittal of the current drainage plan.

In lieu of extending Reserve B, the Subdivision Committee has required platting of a drainage easement along the north portion of the plat covering the drainage ditch and submittal of a restrictive covenant addressing maintenance responsibilities.

- E. Traffic Engineering has approved three openings along Maize Road.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.

- G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in

digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

- 1-3. SUB 2007-54: One-Step Final Plat -- NEWMARKET V ADDITION**, located on the southwest corner of 29th Street North and Maize Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2004-40) from SF-5, Single-Family Residential to LC, Limited Commercial. The Newmarket V Community Unit Plan (CUP 2004-36, DP-278) was also approved for this site subject to platting.

STAFF COMMENTS:

- A. City Water Utilities Department advises that the utility easements established by separate instrument within Reserve A shall be denoted. The platting text shall denote that the Reserve A is platted for "utilities confined to easements". A guarantee is needed for a sewer extension. Water is available on Maize Rd but this property has not been included in the benefit district and will need to pay in lieu of assessment for connection.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. A minimum pad needs to be denoted.
- D. The plat proposes one opening along 29th St and three openings along Maize Road in accordance with the CUP. The platting text specifies that "all access openings shall be in accordance with minimum spacing requirements of the Wichita/Sedgwick County Access Management Standards."
- E. Traffic Engineering has approved the right-of-way along Maize.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The Applicant shall contact MAPD regarding the need for a CUP adjustment since the original CUP included three parcels.
- J. Traffic Engineering requests the applicant to submit a petition for a northbound left turn lane into the major opening along Maize. A decel lane is needed from the major opening to the south entrance.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platting text shall include language that a drainage plan has been developed for the plat and that all

drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- M The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R Perimeter closure computations shall be submitted with the final plat tracing.
- S A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

- 1-4. **SUB 2007-55: One-Step Final Plat -- NGUYEN ADDITION**, located on the south side of Harry and east of Webb Road.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2005-17) from SF-5, Single-Family Residential to LC, Limited Commercial.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has received a drainage plan. Modifications are needed. The elevation datum needs to be corrected.
- D. The plat proposes two openings along Harry including one joint opening with the property to the east. *Traffic Engineering has approved an opening along Harry in a central location along the frontage. The existing opening at that location may be widened if so desired. The westernmost existing opening shall be closed. The proposed easternmost opening is approved if reduced to 15 feet and a joint access easement is obtained from*

property owner to the east. The final plat tracing shall reference the dedication of access controls in the plat's text.

- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. County Surveying advises that D" needs to be denoted in the legend.
- G. The plat's text shall note the dedication of the streets to and for the use of the public.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (10-0).

GISICK in @1:36 P.M.

1-5. SUB 2007-56: One-Step Final Plat -- CAMPUS CREST ADDITION, located on the southwest corner of 29th Street North and Oliver.

NOTE: This property includes a portion of the vacated Greenbriar Manor Addition. The applicant requests a zone change (ZON 2007-30) from LC, Limited Commercial to MF-29, Multi-Family Residential for the northwest portion of the site.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change.
- B. City Water Utilities Department advises that water is available on Oliver. The sewer lateral needs to be extended and in lieu of main assessment included with petition.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the applicant's drainage plan. On-site detention is needed. Clarification of the FEMA flood boundaries needs to be provided.
- E. The plat proposes two openings along Oliver. Traffic Engineering has approved the access controls.
- F. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. If there is a swimming pool to be built, the design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- G. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- H. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. County Surveying advises that applicant needs to dimension the Kanab Pipeline easement.
- K. County Surveying advises that "Basis of bearings" is missing from the final plat.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit

from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL, Planning staff requested that this item be deferred two weeks.

MOTION: To defer the item two weeks.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (11-0)

SHERMAN in @1:37 P.M.

❖ **PUBLIC HEARINGS – VACATION ITEMS**

2-1. VAC 2007-17: Request to vacate a portion of platted complete access control.

<u>OWNER/APPLICANT:</u>	Mark & Susan Davis, Tam & Tuyet Nguyen, Vickie Carter & Jill White, David & Lynda Kauffman
<u>LEGAL DESCRIPTION:</u>	Generally described as the two existing 24-foot wide drives onto Central, located on Lot 1, Jim Fisher Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located midway between Edgemoor & Woodlawn Boulevards, Drive, on the south side of Central Avenue and east of Brookside Parkway (District #II)
<u>REASON FOR REQUEST:</u>	Wants to keep existing drive
<u>CURRENT ZONING:</u>	The site is zoned “NR” Neighborhood Retail with PO #10 (01-14-97) and “GO” General Office with restrictive covenant COV-2. Abutting southern properties are zoned “SF-5” Single-family Residential. Adjacent northern properties, across Central, are zoned “LC” Limited Commercial. Adjacent western & eastern properties are zoned “GO.”

The applicants have applied for vacation of a portion of complete access control along the site’s Central frontage. The applicants want to keep a driveway that originally served what was a single-family residence, prior to the rezoning and replatting of the site. Z-2806 (Published 01-20-87) rezoned Lots 1 –15, Block 1, Oakwood Estates 2nd Addition from “AA” & “A” One & Two-family Residential to “BB” Office (“GO” General Office), subject to covenant (COV-2) and contingent on replatting within 1-year. A condition of the replatting was the grouping of these residential lots into larger and fewer lots, with consideration of joint access and circulation to rear parking lots. The replatting resulted in the Jim Fisher Addition being recorded with the Register of Deeds June 21, 1988. The site was once Lots 1-4, Block 1, Oakwood Estates 2nd Addition and now is Lot 1, Jim Fisher Addition. The site contains the original 4 single-family residences/lots, which have subsequently become businesses. The Jim Fisher Addition shows complete access control on Lot 1 except for one drive onto Central. Currently there are two drives onto Central off of Lot, The Jim Fisher Addition, the applicants wish to retain both of them.

Public Works recently made improvements on Central Avenue, at this location, and was in the process of bringing businesses located in the Fisher Addition into compliance with the above described requested 1987 zoning and its required replatting. This process has been complicated by the fact that redevelopment of the single-family residences into office or neighborhood retail businesses has been slow and uneven. Cooperation among

neighbors/owners in the development of their individual businesses has been uncertain, perhaps because of lack of understanding the zoning and platting conditions on their business site. Nineteen years after the rezoning and replatting of the 20 business sites, 8 of them remain residential, breaking up any continuous, shared redevelopment of the businesses.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the requested vacation of the described portion of complete access control, with the following findings:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication, as required by law, by publication in the Wichita Eagle & the Derby Reporter of notice of this vacation proceeding one time May 31, 2007 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
 - (1) Allow the existing two (2) drives generally located on the east 62-feet of Lot 1, Jim Fisher Addition and the west 62-feet of the east 186-feet of Lot 1, Jim Fisher Addition to remain. Provide Planning Staff with an accurate legal of the existing two (2) drives on a word document via e-mail.
 - (2) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
 - (3) All improvements shall be to the City's standards and at the owner's expense
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Allow the existing two (2) drives generally located on the east 62-feet of Lot 1, Jim Fisher Addition and the west 62-feet of the east 186-feet of Lot 1, Jim Fisher Addition to remain. Provide Planning Staff with an accurate legal of the existing two (2) drives on a word document via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be to the City's standards and at the owner's expense
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

2-2. VAC 2007-18: Request to vacate a portion of a platted utility easement dedicated by separate instrument.

OWNER/AGENT:

Brighton Courts LLC, c/o Rob Ramseyer
MKEC Engineering Consultants, c/o Brian Lindebak

LEGAL DESCRIPTION:

See the attached exhibit and legal: generally described as the north 3-feet of the 10-foot utility easement dedicated by separate instrument, Film/Page #28848149 located along the south lot line of Lot 28 and a portion of the south lot line of Lot 29, Block 1, all in the Brighton Courts Addition, Wichita, Sedgwick County, Kansas.

LOCATION:

Generally located south of 21st Street North, west of Webb Road, and northwest of the Wilson Estates Parkway and Paddock Green Circle.
(WCC #II)

REASON FOR REQUEST:

Parking has been relocated to a reserve, parking easement no longer needed

CURRENT ZONING:

Subject properties are zoned "SF-5" Single-family Residential and "GO" General Office. Abutting and adjacent properties are zoned "SF-5" or "GO." All are in CUP DP-201.

The applicant is requesting consideration for the vacation of the described utility easement dedicated by separate instrument. There are no manholes, sewer or water lines in the easement. The applicant has proved letters from the franchised utilities, which have given their approval of the proposed vacation. Westar has equipment in the easement, but has given their approval of the described vacation. Comments from Storm Water have not been received and are needed to determine if they have utilities located within the easement. The Brighton Courts Addition was recorded with the Register of Deeds September 11, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the described portion of the easement dedicated by separate instrument, with the following conditions:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication, as required by law, by publication in the Wichita Eagle & the Derby Reporter of notice of this vacation proceeding one time May 31, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
 - (1) Contact Storm Water in regards that the remaining 7-feet of easement is sufficient for surface drainage for Lots 29 & 28, Block 1, Brighton Court Addition.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Contact Storm Water in regards that the remaining 7-feet of easement is sufficient for surface drainage for Lots 29 & 28, Block 1, Brighton Court Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
3. All improvements shall be according to City Standards and at the applicants' expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

2-3. VAC 2007-19: Request to vacate a platted parking easement.

OWNER/AGENT:

Brighton Courts LLC, c/o Rob Ramseyer
MKEC Engineering Consultants, c/o Brian Lindebak

LEGAL DESCRIPTION:

See the attached exhibit and legal: generally described as the platted non-exclusive residential parking easement located mostly in Lot 9 and some in Lot 10, Block 1, and Reserve D, all in the Brighton Courts Addition, Wichita, Sedgwick County, Kansas.

LOCATION:

Generally located south of 21st Street North, west of Webb Road, and northwest of the Wilson Estates Parkway and Paddock Green Circle.
(WCC #II)

REASON FOR REQUEST:

Parking has been relocated to a reserve, parking easement no longer needed

CURRENT ZONING:

Subject properties are zoned "SF-5" Single-family Residential and "GO" General Office. Abutting and adjacent properties are zoned "SF-5" or "GO." All are in CUP DP-201.

The applicants are requesting consideration for the vacation of the described parking easement. There are no manholes, sewer or water lines in the parking easement. The applicant has identified Reserve D as the area where

the parking will be relocated. Per the platlor's text Reserve D is to be used for "berming, open space, landscaping, monuments, irrigation, drainage, and utilities as designated." There are no manholes, sewer or waterlines in Reserve D. The reserve shall be owned and maintained by the homeowners association. Comments from the franchised utilities and Storm Water have not been received and are needed to determine if they have utilities located within Reserve D. The Brighton Courts Addition was recorded with the Register of Deeds September 11, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the platted non-exclusive residential parking easement and a portion of Reserve D as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 12, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement & reserve and the proposed uses allowed in vacated portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted easement and reserve and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the use restrictions as listed in the platlor's text of Reserve D, to allow the additional use of common non-exclusive parking. Provide staff with comments from the franchised utilities in regards to possible location of their equipment in the reserve.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
 - (3) All improvements shall be according to City Standards and at the applicants' expense.
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Vacate the use restrictions as listed in the platlor's text of Reserve D, to allow the additional use of common non-exclusive parking. Provide staff with comments from the franchised utilities in regards to possible location of their equipment in the reserve.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on

the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

3. **Case No.: ZON2007-19** – 31st South Rock Investments, LLC c/o Rob Ramseyer (owner); Baughman Company, PA c/o Russ Ewy (agent) Request County zone change from “SF-20” Single-family Residential to “IP” Industrial Park on property described as;

The South half of the Northwest Quarter of Section 8, Township 28-South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part of said Northwest Quarter described as follows: Commencing at the Southwest corner of said Northwest Quarter; thence northerly along the west line of said Northwest Quarter, 150.02 feet to a point 150.00 feet normally distant north of the south line of said Northwest Quarter, and for a point of beginning; thence easterly parallel with the south line of said Northwest Quarter, 660.10 feet to a point 660.00 feet normally distant east of the west line of said Northwest Quarter; thence northeasterly to a point 266.00 feet normally distant north of the south line of said Northwest Quarter and 770.00 feet normally distant east of the west line of said Northwest Quarter; thence northerly parallel with the west line of said Northwest Quarter, 1065.55 feet, more or less, to a point on the north line of the South half of said Northwest Quarter; thence westerly along the north line of the South half of said Northwest Quarter, 770.05 feet to the Northwest Quarter corner of the South half of said Northwest Quarter; thence southerly along the west line of said Northwest Quarter, 1177.10 feet, more or less, to the point of beginning, and EXCEPT that part taken for road. Generally located 800 feet east of Rock Road approximately 1/2 mile south of 31st Street South.

BACKGROUND: The applicant requests rezoning of a 60-acre tract from “SF-20” Single-family Residential to “IP” Industrial Park. The property is located approximately 800 feet east of Rock Road and located between one-fourth and one-half mile south of 31st Street South. The proposed industrial park site would be separated from Rock Road by a commercial development, DP-300 Rocky Ford Commercial Community Unit Plan on property zoned “LC” Limited Commercial.

The property is located close to McConnell Air Force Base and would be located within the AT/FPO Anti-Terrorism/Force Protection Overlay District designed to regulate the height of structures. The property also is within the area designated as appropriate for “IP-A” Industrial Park-Airport District.

The main difference between IP and IP-A are additional use restrictions to eliminate uses that generate higher volumes of employees/patrons per square mile, in order to be more compatible with the operation of airport and related facilities. The uses eliminated by IP-A compared with IP include the civic uses of auditorium, cemetery, college and university, community assembly, day care, library, and parks and recreation subject to a limitation of 25 participants/spectators per acre. Excluded commercial uses are: animal care, ATM, bank and financial institution, broadcast/recording studio, convenience store, farmers market, office (general), personal care service, personal improvement service, post office substation, restaurant, tattoo, vocational school, and wireless communication facility.

The applicant has indicated agreement with most IP-A restrictions but has requested that certain commercial support services that are often associated with industrial park facilities remain available. Those uses would be: ATM, bank and financial institution, convenience store, office (general), personal care service, personal improvement service and restaurant. The applicant indicated that they would prohibit restaurants within 200 feet of north and east property lines, which removes them from the vicinity of future residential areas but does not eliminate the possibility of large concentrations of diners at a restaurant site.

The site currently is in agricultural use and is zoned SF-20. The property to the north, east and south is zoned SF-20 and is in agricultural use. The property to the west is approved for LC development (DP-300) but currently is vacant. McConnell is located west of Rock Road.

CASE HISTORY: The property is unplatted. A residential plat was filed for the property (SUB2006-10) but not completed.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agricultural
SOUTH:	SF-20	Agricultural/farmstead
EAST:	SF-20	Agricultural
WEST:	SF-20, AFB	Agricultural (vacant), McConnell

PUBLIC SERVICES: The property is located on Rock Road, a principal arterial. Traffic counts for 2006 were 17,221 vehicles per day on Rock Road between 31st Street South and 39th Street South. The 2030 projection for Rock Road is 31,500. A narrow strip of property extends from the main tract of property along the half-section line to Rock Road and would be the primary access route. Other normal public services will be available and provided for during the platting process.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center." It also showed it as "Potential Future Park Site." The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the "Maximum Mission Area" identified by the Joint Land Use Study. The site is within the one-half mile wide anti-terrorism/force protection zone around McConnell. The new IP-A district is designed to accommodate uses in proximity to airports and related facilities. The IP-A statement of purpose in the Unified Zoning Code is identical to that for the IP district except for encouraging uses compatible to airport operations and eliminating uses within the commercial, services and administrative categories.

RECOMMENDATION: Based on the location of the tract near McConnell and the safety and security concerns associated with this proximity, coupled with the separation of the tract by a commercial development fronting onto Rock Road, IP-A is an ideal zoning district. Even with the modifications to IP requested by the applicant to allow certain commercial uses often found in conjunction with industrial parks, most civic uses and most of the more intensive commercial uses still are excluded. Based on these factors and information available prior to the public hearings, planning staff recommends that the request for IP Industrial Park be approved subject to platting within one year and subject to the following protective overlay.

The property shall be developed in conformance with the IP-A District of the Unified Zoning Code with the following additional uses being permitted: ATM, bank and financial institution, convenience store, office (general), personal care service, personal improvement service and restaurant, subject to the condition restaurants shall not be permitted within 200 feet of the north and east property lines.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located within one-half mile of McConnell Air Force Base. The site is currently zoned SF-20 and is in agricultural use. The property to the north, east and south is zoned SF-20 and also is in agricultural use with scattered farmsteads. The property to the west is approved for LC development (DP-300) but currently is vacant.
2. The suitability of the subject property for the uses to which it has been restricted: According to the recommendations of the Joint Land Use Study, the property is less suitable for traditional residential development than for Industrial park development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation of IP-A best honors the recommendations of the use of property in the vicinity of McConnell AFB and near airport operations; the modifications keep the district in better conformity than unrestricted IP zoning.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies. The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” It also showed it as “Potential Future Park Site.” The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the “Maximum Mission Area” identified by the Joint Land Use Study. The site is within the one-half mile wide anti-terrorism/force protection zone around McConnell. The new IP-A district is designed to accommodate uses in proximity to airports and related facilities. The IP-A statement of purpose in the Unified Zoning Code is identical to that for the IP district except for encouraging uses compatible to airport operations and eliminating uses within the commercial, services and administrative categories, which has been modified by the addition of some uses typically associated as support services to industrial parks.
5. Impact of the proposed development on community facilities: Predicting traffic generation rates for industrial parks is difficult because of the wide range of potential uses and great variability in employment for manufacturing compared to wholesaling types of activities.

BISHOP said she had a question concerning staff’s recommendation in the staff report on page 3, paragraph #4, with reference to the IP-A District and restaurants in the protective overlay.

DONNA GOLTRY explained that the agent and applicant were interested in adding back miscellaneous uses associated with “IP” Industrial Park type activities.

DIRECTOR SCHLEGEL explained that this was area was not in the airport overlay district, but that this was a separate district in the vicinity of the airbase.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **ALDRICH** seconded the motion, and it carried (12-0).

4. **Case No.: ZON2007-23** – Leslie Eck (agent) / Poe & Associates c/o Tim Austin (agent) Request County zone change from “SF-20” Single-family Residential to “LC” Limited Commercial on 3.16 acres on property described as;

The North 550 feet and the East 250 feet of the West 275 feet of the following described tract;
The Southeast Quarter of Section 27, Township 26 south, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT road right-of-way record.. Generally located At the Southwest corner of K-96 and Hoover Road (3955 N. Hoover Rd).

BACKGROUND: The applicant owns approximately 150-acres located just south of K-96, and along the west side of Hoover Road. The site in question is a little over three-acres located at the extreme northeast corner of the 150-acre parcel. The property is located in an unincorporated part of Sedgwick County, but within the Wichita 2030 growth area. The property is currently zoned “SF-20” Single-family Residential and the applicant is requesting “LC” limited Commercial zoning on this property for what the applicant describes as the “best use” of the land. The applicant’s property was developed as a sand and gravel extraction operation (CU-373,) but at this time the property is undeveloped.

“LC” zoning is located on the four corners of the intersection south of the subject site, at Hoover Road and 37th Street North, but nothing in that area is commercially developed. With the exception of the applicant’s property these surrounding properties are either agricultural fields with a single-family farmhouse or undeveloped vacant land. The character of the area, other than the intersection of Hoover and 37th St. North, is agricultural with scattered large tract residential (all zoned “SF-20”) to the north and east of the subject site. West and south of the site, is the remaining 150-acres owned by the applicant. Conditional Use, CU-373, covered the property owned by the applicant (zoned “SF-20”) to allow sand and gravel excavation, but the Conditional Use expired December 31, 1997. The site abuts the eastbound of State Highway K-96, but Hoover Road has no access off or onto K-96.

CASE HISTORY: The site is not platted. In 1958 the Board of County Commissions (BoCC) approved the Official Zone Map of Sedgwick County, Kansas. On this map all four corners (approximately 7-8-acres on each corner) of Hoover Road's intersection with 45th Street North (north of the subject site) and 37th Street North (south of the subject site) was identified as being zoned "LC" Light Commercial. The extreme southeast corner (approx. 7-acres) of the applicant's property was zoned "LC" in 1958. On the 1958 zoning map the remaining 143-acres of the applicants' property (the subject site) was identified as being zoned "R-1." On March 25, 1996, as approved by the City Council and BoCC, the zoning district names and map code designations for Wichita and Sedgwick County converted the "LC" Light Commercial district to "LC" Limited Commercial and the "R-1" Suburban Residential district to "SF-20" Single-family Residential. The size and configuration of the commercial zoning on the four corners of the 45th Street North – Hoover Road intersection remains unchanged from the 1958 zoning map to the present.

The entire 150-acre parcel was under a Conditional Use (CU-373) that was approved on July 20, 1994 to allow sand and gravel extraction operation. The Conditional Use Permit expired on December 31, 1997 and has not been renewed. The subject site is currently undeveloped.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Single Family Residential Single-family residence Agricultural fields
SOUTH:	"SF-20"	Single-family Residential Vacant Land
EAST:	"SF-20"	Single-family Residential Agricultural fields
WEST:	"SF-20"	Single-family Residential Vacant Land

PUBLIC SERVICES: Hoover Road is a two-lane, paved arterial, in the County, at this location. The 2030 Transportation Plan of the Wichita/Sedgwick County Comprehensive Plan indicates no change to the current status of Hoover. No projects exist in the CIP for this road. There are no traffic counts at for this stretch of road. A site this size could potentially see gross building coverage of approximately 41,817 square feet. If developed as all retail, the site could generate approximately 1,756 average daily trips. City water and sewer are not available on the site. The site is outside any Rural Water districts.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" identifies the application area as appropriate for "Urban Development Mix" development. The Guide suggests "concentrations and pockets of major institutional uses, local commercial uses and park and open space uses," could be developed in this area based upon market driven location factors. The applicant's requested "LC" zoning for their site seems appropriate as considered within the Guide's recommended "Urban Development Mix" development for this area, which stretches from just east of Ridge Road to Hoover Road and from 37th Street North to K-96.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting the property within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area is predominately zoned "SF-20" and with scattered large tract single-family residences, agricultural fields and undeveloped land. A Conditional Use (CU-373) was approved on July 20, 1994 to allow sand and gravel extraction operation. The Conditional Use Permit expired on December 31, 1997 and has not been renewed. The 37th Street North – Hoover Road intersection has had its four corners commercially zoned since 1958. 37th Street North is a dirt township road that serves local residential traffic. According to the 2030 Transportation Plan, 37th Street North, from West Street to 167th Street, is to be developed into a two-lane arterial. Hoover Road is a paved two-lane arterial with no access onto K-96, just north of the site. There is no city water or sewer available to the area. All things considered, it would seem that the area would continue to experience slow development.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject site exceeds the minimum lot size and configuration requirements for the "SF-20" zoning district and could be developed as a single-family residence. A lack of public services, limited access to major arterials and generally a lack of development in the area, make large commercial development at his intersection somewhat unlikely at this time.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The rezone to "LC" at this site will have a minimal, if any, affect on the area in the near future.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide" identifies the application area as appropriate for "Urban Development Mix" development. The Guide suggests "concentrations and pockets of major institutional uses, local commercial uses and park and open space uses," could be developed in this area based upon market driven location factors. The applicant's requested "LC" zoning for their site seems appropriate, but premature given the lack of services, as considered within the Guide's recommended "Urban Development Mix" development for this area, which stretches from just east of Ridge Road to Hoover Road and from 37th Street North to K-96.
5. Impact of the proposed development on community facilities: The proposed zoning will not initially impact community facilities, as public water and sewer are not available, and traffic will not be significantly affected by such a small area added to the inventory of existing commercial zoning. However, approval of the request could increase demand for services ahead of extension of the public services.

DERRICK SLOCUM, Planning staff reported that the agent has requested a two-week deferral on this application.

MOTION: To defer application for two weeks.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (12-0).

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5. Case No.: ZON2007-25/CUP2007-25 – Victor H. Schofield, RJ Reality, LLC and Schofield-Hatchett, Inc., c/o Roger Schofield (owner); Baughman Company, P.A., c/o Russ Ewy (agent) Request Creation of DP-305 Scholfield Honda Commercial Community Unit Plan and City zone change from "GO" General Office and "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

Lots 1 and 2, Block 1, East Mission 2nd Addition to Wichita, Sedgwick County, Kansas; TOGETHER WITH

Lot 1, Block A, McHugh Addition to Wichita, Sedgwick County, Kansas; TOGETHER WITH

Lot 1 and the alley south and adjacent to said Lot 1, Ripstra Addition to Wichita, Sedgwick County, Kansas; TOGETHER WITH

The west 20 feet of the west alley as platted in Bridwell Addition to Wichita, Kansas, TOGETHER WITH

Lot 1, Scholfield-Hatchett 3rd Addition, Wichita, Sedgwick County, Kansas; TOGETHER WITH

The east 39 feet of Lot 2, Lots 3 through 5, and the west 9 feet of Lot 6, Block 10, Eastridge Addition, Wichita, Kansas. Generally located Between Kellogg, Gouverneur Road, Orme Street and Mission Road.

BACKGROUND: The applicant proposes to create DP-305 Scholfield Honda Commercial Community Unit Plan, containing approximately 7 acres on the block of property bounded by Kellogg Drive on the north, Gouverneur Road on the east, Orme Street on the south and Mission Road on the west. Concurrently, 0.8 acre of the property zoned either "GO" General Office or "TF-3" Two-family Residential would be rezoned to "LC" Limited Commercial so that the entire CUP would be designated as LC. One lot along Orme Street, zoned TF-3, is excluded from this request and is owned by a different property owner.

The majority of this tract already is zoned LC and used for an automobile dealership. The addition of the peripheral tracts zoned GO and TF-3 consolidates the Scholfield Honda holdings and triggers a need for a CUP since the overall tract exceeds six acres of LC zoning. Currently the property is subject to a hodge-podge of conditional uses, variances, zoning adjustments and protective overlays attempting to accomplish ensure a quality of development. This CUP can incorporate the variance and protective overlay provisions and replace the conditional use and zoning adjustments.

The proposed use for the CUP is auto sales and leasing and associated uses. The east half of the site, platted as Scholfield-Hatchett 3rd Addition and Ripstra Addition, consists of the main showroom, service building and vehicle storage facilities. A restaurant on the next lot to the west, McHugh Addition, was razed and has been replaced with an asphalt lot for automobile display. The property along Mission Road, platted as East Mission 2nd Addition, consists of a vacant building previously used as for retail (Blockbuster Audio) and parking. Four lots along Orme

Street, part of Eastridge Addition, have been cleared of single-family homes and are intended for vehicle storage use.

Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent. Building setbacks are partially shown on the CUP but should be 35 feet. Maximum building height would be 35 feet. Signage would be per Wichita Sign Code except prohibiting billboards, off-site signs and portable signs per Unified Zoning Code restrictions on CUPs. Signage except directional signs would be prohibited along the south 105 feet of the property line on Gouverneur Road, all of Orme Street, and the south 120 feet of Mission Road due to the residential use and zoning across the street from Orme and Mission. Also light pole heights (including base, pole and fixture) would be restricted to 15 feet in the southwest area and outdoor speaker systems would be prohibited except in the area along Kellogg Drive. The CUP has aligned access points on Kellogg Drive with the access management policy for arterial streets. The access point on Mission Drive approximately 70 feet north of Orme is directly across from property zoned TF-3 and developed with a single-family residence; therefore it is recommended that this access point be closed to avoid delivery trucks and vehicles entering and exiting the parking lot directly across from the dwelling.

Requested screening on the south property line and southwest corner of the property would be with a six to eight foot high concrete wall with a planting screen of evergreen trees at a rate of one tree per 20 linear feet in the right-of-way between the property line and the street. This is a continuation of an existing pattern on the east half of the site. A minor street privilege would be required to use the right-of-way; an alternative is to devote the southern edge of the private property for planting a row of evergreen trees on-site.

The Kellogg freeway borders the property on the north. The land north of the freeway includes the tall concrete serpentine wall buffering Eastborough's single-family community to the northwest and an apartment complex zoned "B" Multi-family Residential and the Rusty Eck ford automobile dealership to the north (PUD #16). Another automobile dealership on zoned LC is east of Gouverneur Road. Retail stores and a hotel are located to the west of Mission Road on property zoned LC. Orme Street forms a sharp dividing line, with all property to the south being zoned "SF-5" Single-family Residential and in single-family residential use, and the north side of Orme Street west of Mission Road being zoned TF-3 but single-family residential use. One home remains on the north side of Orme and would be surrounded by the automobile dealership use.

CASE HISTORY: Five plats are in effect on the property: Scholfield-Hatchett 3rd Addition, recorded March 18, 1993; Ripstra Addition, recorded June 14, 1956; McHugh Addition, recorded April 26, 1967; East Mission 2nd Addition, recorded September 21, 1994; and Eastridge Addition, recorded December 3, 1949. Property rezoned since 1960 include Z-0854 from A to LC (McHugh Addition), Z-2667 and Z-3046 from A to LC (southern 1/3 of Scholfield-Hatchett 3rd Addition), and Z-3129 from A to LC and BB. BZA30-85 included conditions for use of property as car lot and is to be incorporated into the CUP provisions. PO #124 associated with ZON2003-09 rezoned a lot on Orme Street from TF-3 to LC with PO provisions, which also is to be incorporated into the CUP provisions. BZA2006-53 reduced spacing of a freestanding sign on Kellogg Drive from 150 to 120 feet.

ADJACENT ZONING AND LAND USE:

NORTH:	B, PUD, Eastborough	Kellogg freeway, Single-family, apartments, automobile dealership
EAST:	LC, SF-5	Automobile dealership, single-family residential
SOUTH:	SF-5	Single-family residential
WEST:	LC, TF-3	Single-family residential, duplexes

PUBLIC SERVICES: Kellogg Drive is a one-way arterial frontage road for the Kellogg freeway (US-54) that is serviced from the Woodlawn on and off ramps. Traffic counts were not available for the frontage road. Other municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial," which is the type of development proposed. The property south of Orme Street is shown as "urban residential". **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has good access due to its location on Kellogg. Access would be prohibited on Orme Street, the southern 120 feet of Mission Road and southern 105 feet of Gouverneur Road. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access

points requested on the CUP is to be in alignment with the arterial separation standards of the Access Management Policy. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The proposed CUP restricts signage, the height of parking lot lighting to 15 feet and use of outdoor speakers in the southern 120 feet of the CUP and has modified screening requirements tailored to the situation.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting or dedication of access controls within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2007-25) to LC Limited Commercial subject to replatting or dedication of access controls within one year;
- B. APPROVE the Community Unit Plan (DP-305), subject to the conditions of the CUP attached hereto and the following conditions:
 1. Parcel 1 shall be subject to the Unified Zoning Code Article III, Section III-D.6.x, except outdoor speakers and sound amplification systems and the use of elevated platforms to display vehicles shall be permitted in the north 270 feet of the portion of Parcel 1 not included in BZA30-85.
 2. Portions of the CUP are subject to the existing conditions of approval of BZA #30-85 and PO #124 and these approvals shall be deemed to remain in effect. Upon approval of the CUP, CON2004-28 and BZA2006-53 shall be deemed superseded by the CUP requirements.
 3. A replat or dedication of access control to eliminate two access points on Kellogg as shown on the CUP shall be completed and the owner shall guarantee closure of the two drives.
 4. A replat or dedication of access control to provide complete access control on the south 120 feet of Mission Road shall be completed and the owner shall guarantee closure of the existing drive.
 5. Add to General Provision #2 that signs shall be spaced a minimum of 150 feet apart except that the spacing between two signs on Kellogg that may be reduced to 120 feet as previously permitted by BZA2006-53 conditions. Add that building wall signs are prohibited on facades facing Orme Street and the south 120 feet of Mission Road and the south 105 feet of Gouverneur Road.
 6. In General Provision #6B, extend the screening requirement to the south 120 feet of the property line along Mission Road.
 7. Add 35-foot building setbacks on all perimeter CUP boundaries.
 8. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 10. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 11. The ordinance establishing the zone change shall not be published until the platting or dedication of access controls has been recorded with the Register of Deeds.
 12. Prior to publishing the ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-305) includes special conditions for development on this property.
 13. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Kellogg freeway borders the property on the north. The land north of the freeway includes the tall concrete serpentine wall buffering Eastborough's single-family community to the northwest and an apartment complex zoned "B" Multi-family Residential

and the Rusty Eck ford automobile dealership to the north (PUD #16). Another automobile dealership on zoned LC is east of Gouverneur Road. Retail stores and a hotel are located to the west of Mission Road on property zoned LC. Orme Street forms a sharp dividing line, with all property to the south being zoned "SF-5" Single-family Residential and in single-family residential use, and the north side of Orme Street west of Mission Road being zoned TF-3 but single-family residential use. One home remains on the north side of Orme and would be surrounded by the automobile dealership use.

2. The suitability of the subject property for the uses to which it has been restricted: The area is most suitable for the LC zoning and uses so long as sufficient buffering and screening is provided along Orme Street to protect the single-family residential neighborhood to the south.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The remaining property owner on property zoned TF-3 will be most affected by the rezoning as this property will be surrounded by intensive commercial use. The buffering and screening will provide some visual separation to the single-family homes on Orme Street between Drury Lane and Mission Road similar to those in place for the homes fronting Orme east of Drury Lane.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial," which is the type of development proposed. The property south of Orme Street is shown as "urban residential". **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has good access due to its location on Kellogg. Access would be prohibited on Orme Street and the southern 120 feet of Mission Road and southern 105 feet of Gouverneur Road. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is to be in alignment with the arterial separation standards of the Access Management Policy. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The proposed CUP restricts signage, the height of parking lot lighting to 15 feet and use of outdoor speakers in the southern 120 feet of the CUP and has modified screening requirements tailored to the situation.
5. Impact of the proposed development on community facilities: As proposed, no significant impacts.

GOLTRY presented the staff report and stated that the point of discussion between the applicant and staff was regarding the extension of the screening wall and closing of the service drive on Mission Road approximately 70 feet north of Orme. Goltry showed (on slides) that the drive is directly opposite the TF-3 zoned property west of Mission, which is developed with a single-family residence, and stated that the Unified Zoning Code screening requirements and CUP requirements would include a screening wall across from residential zoning. She stated it was her opinion that commercial trucks should not be entering and exiting the CUP from an unscreened opening located directly across TF-3 zoned property.

GISICK asked why the parking lot screening required by PO #124 had not been completed, and when the application for this area was approved?

GOLTRY said she believed the application was originally approved in 2004. She added maybe the agent could answer that question.

BISHOP asked for clarification on the previous usage or zoning in regards to off site signs.

GOLTRY said no offsite signs were allowed in the Community Unit Plan (CUP).

MCKAY asked about the location of the fence.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT, indicated that **PAT DORSETT** and **ROGER SCHOLFIELD, PROPERTY OWNERS**, were present to answer any questions. He indicated that currently there was a wood fence around the property, which fulfilled their obligation to screen the lot. He said the

original wall extended 50 feet and that landscaping was on hold until the property was re-zoned. He said they had issues with staff comments on page 4 of the staff report, item #4, which discusses closure of the drive onto Mission Road, and item #6 which talks about extending the masonry screening wall to 70 feet and if that drive is closed, extending the wall to 120 feet. He said they are in asking to leave the existing commercial drive open and requested that item #6 be appropriately reworded to stop the wall at 70 feet. He said this is an existing drive that they believe only moderately impacts the homes to the south and rear quarter of the lot. He pointed out the use and nature of the drive and that it was fundamentally different from regular retail or commercial use. He said this area is utilized for vehicle storage and vehicle transport trucks, and that those trips happened much more infrequently. He said that was their rationale for requesting that the drive be kept open. He concluded by commenting that Orme Street was a more residential street than Mission Road.

ALDRICH asked about the type of fencing, the height and whether it would encompass the entire property.

EWY said it would be a continuation of the current six-foot masonry wall and that it would surround the entire property.

MOTION: To approve subject to staff recommendation, with the exception of items #4 and #6 on the staff report. It was clarified that the wall would extend to the south line of the south driveway on the south on Mission Road for a distance of approximately 70 feet.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (12-0).

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6. **Case No.: ZON2007-26** – Thomas Hopkins (owner); Cherly Andree (applicant) Request City zone change from “GO” General Office to “LC” Limited Commercial on property described as;

Lots 86, 88, 90, 92 94 and the South Half of Lot 96, on Water Street, Mungers Original Town, Sedgwick County, Kansas. Generally located On the northeast corner of Murdock and Water.

Background: The applicant requests LC zoning on platted Lots 86, 87, 88, 90, 92, 94 and 96 of the Mungers Original Town Addition, each encompassing .5-acres, currently zoned GO, for a catering use that serves liquor to be housed within the existing American Legion, Post Number 4. The application area is on the northeast corner of Water Street and Murdock Avenue (816 N. Water.)

The assembly hall at the American Legion is being utilized as a base for a catering business, which serves liquor, and the operator of this catering service needs the rezone to apply for a liquor license. According to Section 4.04.020 of the Wichita City Code, no person shall sell at retail any alcoholic liquor within the corporate limits of the city at or from premises located in areas zoned for more restrictive than NR Neighborhood Retail. Since the current zoning, GO, is more restrictive than NR, a less restrictive zoning would be required for a liquor license.

North of the application area are properties zoned LI, Limited Industrial and GO developed with a plumbing service and a television station. South of the application area is GC, General Commercial and LI zoned property developed with a fire station and additional parking. Land west of the application area is zoned GO and LC developed as the Kansas Vehicle Registration Office and additional parking. Land east of the application area is zoned GO and GC developed with a plumbing service and additional parking.

Analysis: At the MAPC meeting held June 21, 2007, the MAPC voted (12-0) to approve the zone change to LC. No citizens spoke at the MAPC meeting. At the District VI Advisory Board meeting held June 20, 2007, DAB VI also recommended approval of LC (7-0). No citizens spoke at the DAB VI meeting. No protests have been received.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Concur with the findings of the MAPC and approve the zone change to LC Limited Commercial; place the ordinance establishing the zone change for first reading; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (12-0).

7. **Case No.: ZON2007-27** – David Lord and Daniel and Cynthia Lord (applicants/agents) Request City zone change from "SF-5" Single-family Residential to "NO" Neighborhood Office, at 109 South Ridge Road on property described as;

Lot 16, Block C, Westview Addition, Sedgwick County, Kansas. Generally located North of Maple Street on the west side of Ridge Road.

BACKGROUND: The application area is a platted lot (Lot 16, Block C, Westview Addition) containing .44 acre, and zoned SF-5 Single-family Residential. The lot is developed with a 2,140 square-foot single-family residence, and is located on the west side of Ridge Road, approximately 160 feet south of West Douglas Avenue (109 South Ridge Road). The applicants have purchased the property with the intent that their son would live there, offer music instruction and make space within the house available to other music instructors not living in the home. Music instruction by residents of the home is a permitted home occupation in the SF-5 district, but instruction by those not living in the home is not allowed as a home occupation. Therefore, the applicants are seeking NO Neighborhood Office zoning that would allow for instruction by those living outside of the home.

The application area is located along a segment of Ridge Road abutted by similarly sized lots, each originally developed with single-family residential structures. In recent years a number of these lots, both north and south of the application area, have been rezoned from SF-5 to more intense zoning districts – MF-18 Multi-family Residential, NO and GO General Office.

The lot immediately north of the application area was rezoned to GO in 1983. In 2004, the next three lots located further north of Douglas Avenue were also rezoned to GO, subject to a Protective Overlay (PO). In 2000, the property located two lots south of the application area (149 South Ridge Road) was rezoned to NO. The land east of the site, across Ridge Road, is developed with an apartment complex that is zoned SF-5, and subject to a Community Unit Plan that permits apartments as single-family densities. The lots to the west are zoned SF-5 and developed with single-family residences.

Oddly enough, the subject tract was approved for NO zoning, subject to a PO, by both the MAPC and the City Council in 2001 (ZON2001-41). The PO contained the following conditions of approval:

1. The property shall be developed and/or redeveloped with a building that has a residential character, and that includes brick, masonry, wood or composite siding; a double-pitched roof with a minimum vertical rise of 4 inches for every twelve inches; and a maximum height of 25 feet.
2. Freestanding signs shall be monument-type with a maximum height of 8 feet.
3. The property shall be restricted to one point of access onto Ridge Road. If in the future, the abutting lot to the south also converts to a non-residential use, the property owner may be required to pay all costs to modify or close the driveway, to pay one-half the cost of reconstructing the driveway, and to modify the off-street parking area, as required by the Traffic Engineer, in order to allow joint access and cross lot circulation.
4. Lighting shall conform to lighting standards in Sec. IV-B.4 of the Unified Zoning Code and be limited to no more than 14 feet in height.
5. Landscaping shall be provided that is equivalent to a landscaped street yard, parking lot landscaping and screening along Ridge Road, and a buffer along the property lines adjoining a residential district,

as required in the City of Wichita Landscape Ordinance. A Landscape Plan shall be submitted to the Director of Planning for approval prior to the issuance of a building permit.

In 2005, the property was rezoned back to SF-5 (ZON2003-00007) in order to obtain favorable residential mortgage financing.

If the request is approved, zoning screening consisting of fencing, berms and/or landscaping will be required along the south and west property lines, and landscape buffering and parking lot screening will be required. As currently constructed, the site does not comply with compatibility building setback requirements of 25 feet from the south property line. The City Council has the authority to modify the distance. If this request is approved, the setback should be modified to 10 feet to avoid creating a non-conforming setback.

CASE HISTORY: Westview Addition was recorded in 1952. ZON2001-00041 rezoned the property from SF-5 to NO Neighborhood Office, subject to the PO detailed above. ZON2003-00007 rezoned the property back to SF-5.

ADJACENT ZONING AND LAND USE:

NORTH: GO General Office; Insurance office
SOUTH: SF-5 Single-family Residential; Residence
EAST: SF-5 Single-family Residential & CUP; Apartments
WEST: SF-5 Single-family Residential; Single-family residential

PUBLIC SERVICES: Ridge Road is a four-lane arterial. All usual public services are available. Typical offices generate approximately 11 average daily trips per 1,000 square feet of floor area.

CONFORMANCE TO PLANS/POLICIES: The 2030 *Wichita Functional Land Use Guide* map depicts this site as appropriate for “urban residential” uses. The urban residential category is intended to accommodate a complete range of residential densities and types found in a large metropolitan area. The plan further recommends that office uses be located (p. 35) adjacent to arterial streets, and local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale, commercial development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Protective Overlay provisions:

1. Buildings and appurtenances located on the property shall have a residential character, that includes brick, masonry, wood or composite siding; a double pitched roof with a minimum vertical rise of four inches for every twelve inches; and a maximum height of 25 feet.
2. Freestanding signs shall be monument-type with a maximum height of eight feet.
3. The property shall be restricted to one point of access onto Ridge Road. If, in the future, the abutting lot to the south also converts to a non-residential use and the application area is no longer used as a residence, the property owner may be required to pay all costs to modify or close the existing driveway, to pay one-half the cost of reconstructing a new driveway, and to modify the off-street parking area, as required by the Traffic Engineer, in order to allow joint access and cross lot circulation.
4. Lighting shall conform to lighting standards contained in the Unified Zoning Code, and poles or standards shall be limited to no more than 14 feet in height.
5. Landscaping per the Landscape Ordinance shall be installed when the property is no longer used as a primary residence.
6. Compatibility setback along the south property line shall be reduced to the distance that currently exists between the south property line and the existing building.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Surrounding properties are zoned either SF-5 or GO and developed with residences or offices. There is a clear pattern, from north to south, for the conversion of single-family residences to non-residential zoning and uses along the west side of Ridge. The subject tract is the next lot in that line of re-zonings.

2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as a single-family residence, and the applicant expects to live there. He just can't have the outside of the home instructors without the proposed re-zone. Due to the home's location relative to Ridge Road, a four-lane arterial, the site's current zoning could be called into question.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects should be minimal, and should be mitigated by code required development standards and the recommended Protective Overlay.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional office space to the community's inventory, and potentially provide a use for a structure that might be hard to market as a single-family residence. Denial would presumably be an economic hardship to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* map depicts this site as appropriate for "urban residential" uses. The plan further recommends that office uses be located (p. 35) adjacent to arterial streets, and local, service-oriented offices should be incorporated within or adjacent to neighborhood and community scale, commercial development. This request is consistent with these guidelines.
6. Impact of the proposed development on community facilities: Facilities in place are adequate to meet anticipated demand generated by the proposed use.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (12-0).

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8. **Case No.: ZON2007-28** – Harley J. Voth (owner) Request City zone change from "LC" Limited Commercial to "GC" General Commercial on property described as;

BEGINNING 20 FEET SOUTH AND 450 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE EAST 109.9 FEET; THENCE SOUTH 132 FEET; THENCE WEST 109.9 FEET; THENCE NORTH 132 FEET TO BEGINNING. S24-T27S-R1W Generally located Southwest of the intersection of West Douglas Avenue and North McComas Avenue (3825 W. Douglas Ave.).

BACKGROUND: The applicant owns an unplatted lot (0.33 acre in size) located 500 feet east of the intersection of West Street and Douglas Avenue, along the south side of Douglas. This lot is currently zoned "LC" Limited Commercial and appears to be developed with a warehouse / storage type use. The applicant is seeking "GC" General Commercial zoning in order to conduct "vehicle repair, general" (auto body and paint shop) work at this location. The existing building on site would be utilized as the new auto body shop. The shop would have garage door openings on the north side, facing Douglas Ave. The primary entrance and reception area would also be located on the north side of the building.

Surrounding uses include developed LC property (Lots 1, 2 and 3, Black and Towns Addition) located immediately north of the application area. North of the LC lot, are lots zoned "B" Multi-Family Residential and LC with multi-family development that faces McComas Ave. There are other single-family homes along McComas Ave. on "SF-5" Single-Family Residential zoned lots south of the subject site. There are also single-family and multi-family residences located along Illinois Ave. Illinois Ave. is the first street west of the application area. There is residentially developed zoned land located immediately south of the application area (Lots 1 and 2 of the Charles Jackson Addition). The closest residential lot with a residential structure is directly adjacent to the applicant's proposed building from the south. The "LC," Limited Commercial land to the east is developed with a bar / nightclub. The "LC," Limited Commercial land located west is developed with a retail strip store.

Parking requirements for "vehicle repair, general" are 1 space per 500 square feet of building plus 3 spaces. The applicant would need approximately 14 spaces to meet code. "Vehicle Repair, General" is defined by the UZC as an establishment that is primarily engaged in painting of or body work to motor vehicles or heavy equipment, and is

first permitted in the “GC,” General Commercial district. If the site is redeveloped as proposed, landscape street yard, parking lot screening and buffer plantings will be required.

CASE HISTORY: This property has been zoned LC since the adoption of the Unified Zoning Code (“UZC”) in 1996 and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC” Limited Commercial	Retail Strip Store
EAST:	“LC” Limited Commercial	Bar / Nightclub
SOUTH:	“MF-29” Multi Family / “SF-5” Single-Family	Multi & Single Family Residences
WEST:	“LC”, Limited Commercial	Retail Strip Store

PUBLIC SERVICES: Public sanitary sewer service is available to this location. A sewer line runs along the south property line. Public water is available. On-site septic would not be allowed if sewer service is available. Douglas Avenue, at this location, is a four-lane arterial carrying approximately 6,500 average daily trips in 2006.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map depicts this site as appropriate for “local commercial” uses. The “Comprehensive Plan” commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. The “Wichita Residential Area Enhancement Strategy Map” depicts this site a “revitalization” area. Revitalization areas are neighborhoods experiencing structural and market decline, but market and development opportunities still exist.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following Protective Overlay conditions:

- A. Permitted uses are restricted to those uses permitted by right in the “LC” Limited Commercial district plus “vehicle repair, general”.
- B. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries, except where fences are erected, to ensure that parked vehicles do not encroach onto public right-of ways or adjacent properties.
- C. No off-site or portable signs are permitted.
- D. Exterior audio systems shall be prohibited.
- E. All vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened from ground view from abutting / adjoining properties and from abutting streets. Screening shall be of a material approved by the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All nearby properties are zoned “LC” Limited Commercial, “SF-5” Single-family Residential and “MF-29” Multi-family Residential. No “GC” zoning and no uses permitted by “GC” are in the vicinity.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned “LC” and developed with what appears to be a warehouse / storage structure. The lot fronts Douglas, which is a significant east-west arterial. With the Douglas Avenue frontage, and the “LC” zoning which allows a wide range of uses, it seems that the site could be developed as zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce additional open storage and a more intense use(s) than is currently permitted on nearby lots. Auto body shops tend to generate more noise and odors than less intense auto repair uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “Wichita Land Use Guide” map depicts this site as appropriate for commercial uses. The “Comprehensive Plan” commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar

development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. This site does not comply with these locational guidelines.

5. Impact of the proposed development on community facilities: The proposed body shop would not generate any more traffic than uses permitted under the current zoning.

BOB KAPLAN, AGENT, stated that after further discussion with the applicant, they would like to amend the application and apply for less intense use than “GC” General Commercial. He said they would also like to reduce the area requested by about one half of what was originally requested. He requested a deferral of two weeks to 30 days.

MOTION: To defer the application for 30 days.

MCKAY moved, **SHERMAN** seconded the motion, and it carried (12-0).

9. Case No.: CON2007-20 - ADAM, Inc., (Patty McCurley, Belle Terre South HOA) / Baughman, Company, P.A., (Russ Ewy) Request Conditional use to permit a neighborhood swimming pool on property described as;

2 and 3, Block 1, Belle Terre South Addition, Sedgwick County, Kansas. Generally located ½ mile west of 159th Street East, south of Willowbrook

BACKGROUND: The applicant is seeking approval of a Conditional Use to permit a “neighborhood swimming pool” on two platted lots (Lots 2 & 3, Block 1, Belle Terre South Addition) located on the south side of East Willowbrook Street, approximately 1,400 feet west of 159th Street East. A 28-foot by 68-foot pool is proposed with 21 parking spaces. See the attached site plan. The two lots are currently undeveloped.

Immediately north of the subject lots is Willowbrook Street. Located north of Willowbrook Street are platted lots developed with single-family residences. Land immediately east of the subject lots is a platted, but un-built East Kellogg Drive that serves as a frontage road for Kellogg further south and west, but connects with Willowbrook Street. Further east of East Kellogg Drive is undeveloped but zoned LC Limited Commercial land. Immediately south of the site, the property is a platted reserve zoned SF-5 Single-family Residential. Land south of the reserve is more LC zoned property. Land west of the site is a platted developed residential lot zoned SF-5.

The hours of operations and maintenance of the pool will be determined by the homeowner’s association. The code requires landscape street yard and buffer landscaping; outdoor light that employs cut-off luminaries and light mounting standards that are not higher than one-half the distance to SF-5 zoned property. Compatibility setbacks from SF-5 zoning of a minimum of 15 feet up to a maximum of 25 feet will be required

The Unified Zoning Code defines a “neighborhood swimming pool” as a non-publicly owned swimming pool that is not located on the same lot as a residential dwelling unit but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity.

Neighborhood swimming pools can be a “use-by-right” if the site is identified at the time of platting, and a site plan is submitted for review and approval. After the plat is recorded, a Conditional Use is required.

CASE HISTORY: Belle Terre South Addition was recorded in 1997

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; single-family residential
SOUTH: SF-5 Single-family Residential, LC Limited Commercial; vacant
EAST: LC Limited Commercial; vacant
WEST: SF-5 Single-family Residential; single-family residential

PUBLIC SERVICES: Public services area available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this property appropriate for “urban residential.” This category encompasses areas that reflect the full range of residential development densities and types typically found in a large urban municipality.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Prior to the issuance of building permits the applicant shall provide for review and approval eight copies of a landscape plan consistent with Landscape Ordinance requirements.
2. The property will be developed in general conformance with the site plan approved by MAPC.
3. Development and use of this site for a neighborhood association swimming pool shall be in accordance with all applicable codes, including building, construction, health and operational standards.
4. Violation of the foregoing conditions, after appropriate due process considerations, can result in Conditional Use being declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located on the edge of a single-family neighborhood with single-family zoning located on three sides. The south side of the proposed pool is a reserve area that will remain undeveloped. Limited Commercial zoning is located to east. Access to the site is from a collector street. The site is within walking distance of the neighborhood, and the off-street parking requirements minimize the number of parked cars on neighborhood streets. Small private areas like this are becoming commonplace in newer subdivisions.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned, however the two lots are on the edge of the neighborhood and provide the greatest separation from a majority of the residences in the neighborhood. By code the pool is limited to use by residents of the neighborhood and their guests, which limits the pool’s intensity of use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will introduce a use that is not currently permitted by right. Traffic during the summer may increase when compared to a residence, however landscaping and compatibility setback standards mitigate detrimental affects. If the pool is allowed to remain open into the late evening or night, pool operations may be detrimental nearby residences since sound seems to carry further in the evening and nighttime.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Although the swimming pool is for use by the neighborhood, it would assist in meeting Comprehensive Plan Objective VIII. A. of providing a diverse set of recreational opportunities for existing and future residents.
6. Impact of the proposed development on community facilities: Trips to this site would likely increase in the summer if the pool is approved when compared to a single-family residence. Use of the facility will be limited neighborhood residents and their guests, thereby minimizing traffic volume and demand for other services such as police, EMS or code enforcement. Adequate community facilities and services are in place to meet expected demands.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (12-0).

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10. **Case No.: CON2007-21** – Barrington, LLC / Baughman Company PA (Terry Smythe) Request City conditional use for personal improvement service on property zoned “GO” General Office at 530, 534 North Ridge Road on property described as;

Lots 1 and 2, Niedens 5th Addition, Sedgwick County, Kansas. Generally located On the northeast corner of Ridge Road and Freeman Lane.

BACKGROUND: The application area is two platted lots (Lots 1 and 2, Niedens 5th Addition) zoned “GO,” General Office located on the east side of North Ridge Road, approximately ¼ mile south of Central Avenue. The two lots contain .92 of an acre, and are developed each with an office building fronting Ridge Road. The applicant is seeking approval of a Conditional Use to permit “personal improvement services,” to allow licensed massage therapy. Personal improvement services are only permitted by “conditional use” in the “GO,” district.

Properties to the north, east and west of the application area are zoned “SF-5,” Single-family Residential, and developed with residences. South of the subject property is a “SF-5” zoned drainage ditch with “LC,” Limited Commercial zoning located immediately south of the ditch. The “LC” property is developed with an office building. Ridge Road on the west, Summitlawn Lane on the east and Freeman Lane on the south, separate the application area from surrounding properties.

CASE HISTORY: In 1981, the application area was part of a larger area that was considered as case number Z-2371. Z-2371 was a request for “LC,” Limited Commercial and “BB,” Office zoning. The MAPC recommended denial of the request, however, the City Council granted the office request. The Niedens 5th Addition was recorded in 1984.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-5,” Single-family Residential; single-family residences
SOUTH: “SF-5,” Single-family Residential and “LC,” Limited Commercial; drainage ditch / office
EAST: “SF-5,” Single-family Residential; single-family residences
WEST: “SF-5,” Single-family Residential; single-family residences

PUBLIC SERVICES: The site is located in a developed portion of town have the full range of utilities and publicly supplied services available. Ridge Road is an improved four-lane arterial street with 50 feet of half-street right-of-way at this location.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map identifies this area as appropriate for “local commercial” uses, which include concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The Comprehensive Plan also recommends that office uses should be generally located adjacent to arterial streets, and they should be incorporated within or adjacent to neighborhood and community scale commercial development. (Office Locational Guidelines, p.35)

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Nearby properties are zoned “SF-5,” Single-family Residential or “LC,” Limited Commercial and developed with residential or office uses. The area is located adjacent to a four-lane arterial road.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “GO,” General Office which allows a variety of medium to low intensity uses, ranging from single-family residences, multi-family residential to general and medical offices. The site is already developed with buildings suitable for office or small-scale retail use. The site could continue to be used as currently restricted, however personal improvement services should not be unsuitable uses given the site’s orientation and location along an arterial road.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally affect nearby properties. Given the site’s small size, existing development and building orientation, nearby property should not experience any detrimental affects.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would increase the number of locations personal improvement services could be located. Denial presumable would result in an economic loss to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” map identifies this area as appropriate for “local commercial” uses, which include concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The Comprehensive Plan also recommends that office uses should be generally located adjacent to arterial streets, and they should be incorporated within or adjacent to neighborhood and community scale commercial development. This location is consistent with the recommended guidelines.
6. Impact of the proposed development on community facilities: No negative impacts on community facilities have been identified.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (12-0).

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11. **Case No.: CUP2007-22** – Dillon Real Estate Co., Inc., (owner); Professional Engineering Consultants, PA c/o Rob Hartman (agent) Request DP-219 Auburn Hills CUP Amendment #1 to allow a seasonal garden center on property zoned "LC" Limited Commercial on property described as;

Lots 1, 2, 3 and 4, Block 1, Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas..
Generally located East of 135th Street West and south of Maple.

BACKGROUND: The applicant proposes DP-219 Auburn Hills Commercial Community Unit Plan Amendment #2 to allow a seasonal garden center on Parcel 1 as an ancillary use to the Dillon’s SuperStore. The seasonal garden center would be situated along 135th Street West and south of the existing Sonic restaurant, in the same place as was used for this purpose for at least the past season (although no action had been taken to authorize a garden center on the site). Nursery and garden centers are a conditional use in the LC zoning district, and may be permitted by amendment to the CUP.

The seasonal garden center would consist of a 95’X95’ retail area for display and storage of garden items, with a 21’X54’ temporary membrane structure used for the greenhouse. The garden center would be permitted to operate 120 days per year. Garden center display and storage would be confined within the boundaries of the seasonal nursery and garden center except items displayed within 10 feet of the building as is allowable per LC outdoor storage and display requirements of the Unified Zoning Code (“UZC”). The site has ample parking to comply with UZC requirements even when the garden center is in operation.

The surrounding property is zoned “NR” Neighborhood Retail to the east with a commercial strip center under construction, LC to the north and developed with a Walgreen’s, GO to the northwest and developed with a medical building and with a bank under construction, LC to the west with a bank and strip commercial center, “SF-5” Single-family Residential to the southwest with the Auburn Hills Golf Course and Bob Martz Clubhouse, and LC and GO to the south on undeveloped land.

CASE HISTORY: The property was platted as the Auburn Hills Commercial Addition, recorded November 10, 1997. DP-219 Auburn Hills Commercial Community Unit Plan, approved in 1996, triggered the creation of the Far West Side Commercial Development Policy. Amendment #1 increased the height and amount of signage allowed on Parcel 1. An administrative adjustment increased light pole height to 20 feet along 135th Street West but a similar request to the east was withdrawn after neighborhood opposition.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Walgreen’s, vacant, single-family residential
SOUTH:	LC, GO, SF-5	Vacant, single-family residential
EAST:	NR	Commercial strip center under construction, single-family residential

WEST: SF-5, LC, GO Auburn Hills Golf Course and Bob Martz Clubhouse, commercial strip center, banks, medical

PUBLIC SERVICES: The garden center is closest to 135th Street West, which widens from two lanes to four lanes arterial and a left-turn center lane at the entrance to the site. Parcel 1 also has access to Maple Street, a four lane arterial with a left-turn center lane and an acceleration lane. Current traffic counts were 6,525 vehicles per day on Maple and 2,719 on 135th Street West. Projected traffic volumes for 2030 were estimated at 9,700 on Maple and 6,400 on 135th Street West. Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally adheres to these guidelines and garden center will be added as a component to the existing activities on the center.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request DP-219 Amendment #2 be APPROVED subject to the following conditions:

1. The seasonal garden center shall permit the display and storage of merchandise, nursery stock, and landscaping materials within an enclosed building or area designated on the CUP as the seasonal garden center or within the area allowed for display of merchandise in the LC district.
2. Prior to the utilization of the seasonal garden center the applicant shall annually submit a report to the Zoning Enforcement Division of the Office of Central Inspection that demonstrates compliance with the approved CUP plan and conditions specified in this amendment.
3. The seasonal garden center shall conform to all requirements of Section III-D.6.z of the Unified Zoning Code and shall be operated for a maximum of 120 calendar days per year.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Parcel 1 is developed with a Dillon’s SuperStore and an existing Sonic restaurant on property zoned “LC” Limited Commercial. The surrounding property is zoned “NR” Neighborhood Retail to the east with a commercial strip center under construction, LC to the north and developed with a Walgreen’s, “GO” General Office to the northwest and developed with a medical building and with a bank under construction, LC to the west with a bank and strip commercial center, “SF-5” Single-family Residential to the southwest with the Auburn Hills Golf Course and Bob Martz Clubhouse, and LC and GO to the south on undeveloped land.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for use as currently zoned and regulated by the CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the seasonal garden center should be minimal and function as an accessory use to a primary use of the grocery store. The site should be adequately buffered by commercial development on all sides.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-*

Sedgwick County Comprehensive Plan identifies this area as appropriate for "local commercial." This is in conformance with the proposed amendment. **Commercial Objective III.B** encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP generally adheres to these guidelines and garden center will be added as a component to the existing activities on the center.

5. Impact of the proposed development on community facilities: No significant impact.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (11-0-1).

MCKAY sustained due to a conflict of interest.

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12. **Case No.: CUP2007-24** – Simon Property Group, LP (owner); Law/Kingdon c/o Jeff Suchan / Jeff Best (agent) Request DP-12 Amendment #13 to modify sign area per Amendment #12 on property described as;

Commencing at the Southwest corner of Lot 4, Kellogg Mall Addition, thence North 89 degrees 24' 09" East a distance of 362.00 feet to the Point of Beginning; thence North 0 degrees 24'25" West 30 feet; thence N 89 degrees 24' 09" East 30 feet; thence S 0 degrees 24' 25" West 30 feet; thence N 89 degrees 24' 09" East 30 feet to the Point of Beginning. Generally located North of Kellogg and west of Rock.

BACKGROUND: The applicant requests Amendment #13 to DP-12 Kellogg Mall Commercial Community Unit Plan to increase the size of a single sign that includes an electronic reader board not to exceed 150 square feet on Parcel No. 1a. The sign would be positioned on the north side of Kellogg Drive approximately one-sixth mile west of Rock Road, serving as the main shopping center identification sign for the Towne East Square. The property is zoned "LC" Limited Commercial.

Amendment #13 would allow the full sign package desired by Simon Properties, including the overall shopping center sign/logo on top, the individual tenant panels for the four main tenants, and the electronic reader board at the bottom, as shown on the attached exhibit. Amendment #12 addressed the same sign location, but the sign face area initially requested was less than the amount to include all three elements. This amendment would clarify that the total signage will be permitted.

DP-12 was developed in the early 1970s as a large regional shopping center, Towne East Square. Today, it has four major anchor tenants and a two-level shopping mall with many other tenants and a gross leaseable area of over 1,100,000 square feet. It occupies the land from Rock Road to Armour Drive and from Kellogg to Douglas Avenue. The major tenants in the center (listed alphabetically) are Dillard's, JC Penney, Sears and Von Maur, the most recent anchor that was opened in 2002 and replaced a previous anchor. In addition to Towne East Square, Target and Omni Office Park are located west of Armour Drive and are part of the CUP. Other uses located along the perimeter of the site include a bank, six restaurant pad sites, two auto/tire/battery stores, a vacant motel, and a vacant multi-screen cinema. A larger auto dealership was part of the community unit plan until creation of PUD #16 Rusty Eck PUD in 2003.

Surrounding uses along the Kellogg corridor (US-400) include other auto dealerships, shopping centers, freestanding restaurants and two high-rise motels, mostly on property zoned LC.

CASE HISTORY: The property is platted as Kellogg Mall Addition, recorded June 18, 1973. DP-12 was approved in 1966; it was originally known as Rockwood South Community Unit Plan, but the name was changed to Kellogg Mall Commercial CUP. The most recent amendment (Amendment #11 approved January 9, 1996) added a half-acre tract on the southwest corner to former Parcel 9, now part of PUD #16. An adjustment in 2000 allowed revamping the parking and traffic patterns to facilitate construction of Von Maur department store. Other adjustments since 2000 include creating separate parcels for two existing restaurants (requested for financing purposes related to new lessees), and allowing an auto rental agency to be housed within the Sears Automotive use. The most recent adjustment realigned parcels and setbacks to conform to the new CUP boundaries subsequent to

acquisition of right-of-way for the Kellogg freeway construction, to relocate the former Old Chicago restaurant to a new pad site west of the main entrance, to confine the major sign for Towne East Square to a small parcel along Kellogg Drive and increase its height by 10 percent from the previous height of 55 feet to 60 feet, to reconfigure the Parcel 4 boundaries (former Pizza Hut Café) to the new site layout for a new restaurant, and to remove the parcels now part of PUD #16. Amendment #12 allowed a total sign face area of 500 square feet and also authorized that a portion of this amount could be devoted to an electronic message center that did not exceed 150 square feet in size.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Towne East Square
SOUTH:	LC	Hotel, auto dealership
EAST:	LC	Towne East Square, Firestone, restaurants
WEST:	LC	Restaurant, vacant tract, auto dealership, Target

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no significant impact on public services.

CONFORMANCE TO PLANS/POLICIES: Currently, the City of Wichita Sign Code limits sign face area to 300 square feet per sign, but Amendment #12 increased the allowable size to 500 square feet. The sign exceeds this amount; one compensatory factor is that a sign location has been removed from the CUP to compensate for the large sign.

RECOMMENDATION: Allowing a larger sign has been approved by previous governing body action in at least three instances, one of which is on the adjoining PUD #16. In that situation, the PUD allowed an off-site sign with a maximum sign face area of 762 square feet and an onsite arbitron with a maximum sign face area of 400 square feet; both could be 40 feet in height. A third sign that exceeded normal Sign Code allowances was a sign with a maximum size of 300 square feet (the customary limit per Sign Code) but at 80 feet in height. Based on the proximity of this sign request to those approved by PUD #16, plus the reliance of Towne East Square on one sign with greater height and size rather than a multiplicity of smaller signs at closer spacing, and the information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

1. Parcel No. 1a shall be permitted one sign with a maximum size of 650 square feet and otherwise in compliance with Sign Code requirements.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-12 was developed in the early 1970s as a large regional shopping center, Towne East Square. Today, it has four major anchor tenants and a two-level shopping mall with many other tenants and a gross leaseable area of over 1,100,000 square feet. It occupies the land from Rock Road to Armour Drive and from Kellogg to Douglas Avenue. The major tenants in the center (listed alphabetically) are Dillard's, JC Penney, Sears and Von Maur, the most recent anchor that was opened in 2002 and replaced a previous anchor. In addition to Towne East Square, Target and Omni Office Park are located west of Armour Drive and are part of the CUP. Other uses located along the perimeter of the site include a bank, six restaurant pad sites, two auto/tire/battery stores, a vacant motel, and a vacant multi-screen cinema. A larger auto dealership was part of the community unit plan until creation of PUD #16 Rusty Eck PUD in 2003. Surrounding uses along the Kellogg corridor (US-400)

include other auto dealerships, shopping centers, freestanding restaurants and two high-rise motels, mostly on property zoned LC.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a regional shopping mall. The proposed changes to the signage regulations allow a single sign to be used to advertise the main shopping mall instead of a multiplicity of signs.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation to limit the intensity at night will keep this sign from being brighter than the electronic signs already nearby but will add to the already-proliferating electronic moving signs in the vicinity. The presence of large signs on the next property to the west should override the influence of this sign.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Currently, the City of Wichita Sign Code limits sign face area to 300 square feet per sign, but Amendment #12 increased the allowable size to 500 square feet. The sign exceeds this amount; one compensatory factor is that a sign location has been removed from the CUP to compensate for the large sign.
5. Impact of the proposed development on community facilities: Staff has heard comments from the community alleging that moving, flashing signs may confuse motorists.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **JOHNSON** seconded the motion, and it carried (12-0).

13. 2007 Development Trends Highlights Presentation

The Metropolitan Area Planning Department informally adjourned at 2:15 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

